

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellants:	Chobotov et al	Examiner:	Lang Amy T.
Application No.:	10/691,849	Group Art Unit:	3731
Confirmation No:	6691	Docket:	1880-7 RCE
Filed:	October 22, 2003	Dated:	April 28, 2009

For: ENDOLUMINAL PROSTHESIS ENDOLEAK
MANAGEMENT

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Dated: April 28, 2009

Signature John S. Sopko /John S. Sopko/

REPLY BRIEF

Sir:

Pursuant to 37 C.F.R. §41.41, Appellants file this Reply Brief in response to the Examiner's Answer of March 16, 2009. This Reply Brief is being filed on or before the due date of May 16, 2009. Appellant addresses particular points and continue to rely on the arguments of the main Appeal Brief.

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A. EXAMINER'S WITHDRAWAL OF SECTION 112 REJECTIONS

The Appellants thank the Examiner for the withdrawal of the rejections under 35 U.S.C. §112, first paragraph. The Appellants fully support the Examiner's withdrawal of these rejections.

B. NO MOTIVATION TO COMBINE REFERENCES

The applied referenced are as follows: U.S. Patent Application Publication No. 2006/0263301 A1 to Vernon et al. (hereinafter "Vernon"); U.S. Patent Application Publication No. 2006/0224227 A1 to Chobotov (hereinafter "Chobotov"); U.S. Patent Application Publication No. 2005/0090901 A1 to Studer (hereinafter "Studer"); and U.S. Patent Application Publication No. 2005/0052946 A1 to Argentine (hereinafter "Argentine").

Argentine is applied by the Examiner for certain teaching regarding a particular buffer. No additional discussion of Argentine is being provided herewith.

Vernon discloses surgical and endovascular options for treating arteriovenous malformations. (Vernon, page 3, paragraph 0029). The specific intent, function and purpose of Vernon is to provide endovascular embolization by introducing gelling material directly into arteriovenous malformations. (Vernon, page 9, paragraph 0091). Such direct introduction of gelling material into arteriovenous malformations may be performed coincidental to surgery. (Vernon, page 10, paragraph 0108). Thus, Vernon requires its gelling material to be introduced directly into arteriovenous malformations.

Chobotov introduced a gelling material directly into inflation channels of an inflatable graft. (Chobotov, page 5, paragraphs 004- - 0049). Studer introduces a curable material into a pouch to form an intervertebral disk prosthesis. (Studer, page 2, paragraph 0036). Modifying

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either or both of Chobotov and/or Studer to remove its inflatable gelling material from internal portions of their grafts or prostheses and to deposit such material outside of their grafts or prostheses, i.e. directly into arteriovenous malformations as required by Vernon, would destroy the specific intent, function and purpose of Chobotov and/or Studer because the devices of Chobotov and/or Studer would no longer be inflatable as required for their specific intent, purpose and function. Thus, Chobotov and/or Studer teach away from the teaching of Vernon.

It is only through impermissible hindsight reconstruction and impermissible selective picking and choosing of the teachings of the references does the examiner attempt to arrive at the present invention. Nevertheless, the Examiner destroys the purpose, intent and function of at least Chobotov and/or Studer in such an impermissible attempt to arrive at the present invention.

C. CONCLUSION:

Appellant continues to rely on the arguments in the main Appeal Brief. A finding of patentability of claims 31-33, 35-38, 40-46, 48-54 and 56-65 is respectfully requested. Reconsideration and withdrawal of the rejections of claims 31-33, 35-38, 40-46, 48-54 and 56-65 are respectfully requested.

Respectfully submitted,

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